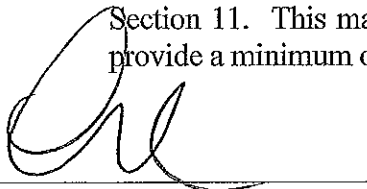


Town of Amherst
Zoning Board of Appeals
SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit, ZBA FY2014-00002, to convert a dimensionally non-conforming detached barn into a dwelling unit, as a Converted Dwelling, under Section 3.3241 and 9.22 of the Zoning Bylaw, at 71 Middle Street (Map 23B, Parcel 2, R-O Zoning District), with the following conditions:

1. One of the units on the property shall be and remain owner-occupied.
2. The interior of the Converted Dwelling shall consist of a studio apartment, substantially in accordance with the floor plans, Sheet A3, prepared by Sarah Newman, AIA, dated July 13, 2013.
3. The exterior of the building shall be renovated and constructed substantially in accordance with the elevations, Sheet A4, prepared by Sarah Newman, AIA, dated July 13, 2013.
4. The site shall be improved substantially in accordance with the site plan, Sheet S1, prepared by Sarah Newman, AIA, dated July 13, 2013:
 - a. A two foot wide impermeable path flanked by two feet minimum of mowed grass on each side shall be provided and continuously maintained. The final construction material for the impermeable path shall be determined by the Building Commissioner in consultation with the Fire Department. Additionally, mowed paths to each of the means of egress and trash storage enclosure shall be continuously maintained.
 - b. An area along the south side of the driveway, approximately 4 feet wide by 36 feet long, shall be expanded to provide two additional parking spaces. Said area of improvement shall comply with the design standards of Section 7.101.
 - c. An area at the end of the driveway turnaround, approximately four feet in depth and 12 feet wide, shall be expanded to provide emergency vehicle parking and maneuvering.
5. Prior to the issuance of a Certificate of Occupancy:
 - a. A residential type sprinkler system, as identified in the Fire Department letter dated August 7, 2013, shall be installed in the Converted Dwelling. In the event that such a system is not installed, the owner shall present an alternative plan to the Zoning Board of Appeals for review at a public meeting. Prior to the public meeting, said alternative plan shall have been submitted to and reviewed by the Fire Department.
 - b. The building shall be connected to Town water and sewer.
 - c. The property shall be registered under the Amherst Residential Rental Property Bylaw, as amended. Loss or suspension of a rental permit shall constitute a violation of this condition.
6. All exterior lighting associated with the Converted Dwelling shall be designed or arranged to be downcast.

7. Upon a change of ownership of the property, if the new owner intends to rent one of the units, a revised/updated Management Plan shall be submitted to the Board at a public meeting. Said Plan shall address all relevant matters pertaining to an "apartment" as listed on the Management Plan form, including but not limited to: lease, complaint response plan, and parking. The purpose of the public meeting will be to determine compliance with conditions or to determine whether changes are substantial enough to require modification of the permit.
 - a. In advance of the meeting, the owner shall be responsible for providing notification to abutters in accordance with Town procedures for notice under Chapter 40A, Section 11. This may require the owner to obtain a Certified List of Abutters and provide a minimum of two week public notice.



Eric Beal, Chair
Amherst Zoning Board of Appeals

10/1/13
DATE

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant/Owner: Jeanne Esposito, 71 Middle Street, Amherst, MA 01002

Date application filed with the Town Clerk: July 25, 2013

Nature of request: For a Special Permit to convert a dimensionally non-conforming detached barn into a dwelling unit, as a Converted Dwelling, under Section 3.3241 and 9.22 of the Zoning Bylaw

Address: 71 Middle Street (Map 23B, Parcel 2, R-O Zoning District)

Legal notice: Published on August 14, 2013 and August 21, 2013 in the Daily Hampshire Gazette and sent to abutters on August 15, 2013

Board members: Eric Beal, Tom Ehrgood, Mark Parent

Staff members: Jeff Bagg, Senior Planner

Submissions:

- Project Application Report, dated August 27, 2013
- Application form filed with the Town Clerk on July 25, 2013
- Management Plan
- Sample Lease
- Site Plan prepared by Sarah Newman, AIA, dated July 13, 2013
- Architectural Plans, Elevations, and Floor Plans prepared by Sarah Newman, AIA, dated July 13, 2013
- Existing Conditions Survey, prepared by Harold Eaton Associates, dated July 13, 2012
- Fire Department review letter, dated August 7, 2013
- Town GIS, 1956 aerial photograph

Site Visit: **August 28, 2013**

Tom Ehrgood and Mark Parent met the applicant, Jeanne Esposito, on-site. They observed the location of the property along the west side of Middle Street, and the following:

- The existing driveway; mowed path to the existing detached barn; and, the natural vegetation in the vicinity of the barn.
- The interior of the barn and new foundation. It was noted that the barn structure had been previously lifted with a new foundations poured and the structure put back in place.

Public Hearing: August 29, 2013

The applicant, Jeanne Esposito, was accompanied by her husband George Karras, and her architect, Sarah Newman. The project was presented in terms of the plans, summarized as follows:

- The existing detached structure is situated on the property 5.5 feet from the rear property line, as shown on the survey. The rear of the property abuts Westover Meadow, a Town owned conservation area that we assisted in preserving along with the Town and the Kestrel Trust.
- The proposal is to renovate the barn into a studio apartment with a kitchen, bathroom, dining room and sleeping area on the first floor and a small second floor loft area for storage, as shown on the floor plans.
- The intent is to allow family members to reside in the unit, but it could potentially be used as a rental for carefully selected tenants. The owners of the property are small scale landlords with some experience owning rental units.
- The property will be owner occupied. At present, the owners will live in the main house but noted that sometime in the future they could end up living in the barn and rent the house.
- The landscaping around the structure will be largely natural vegetation, although the architectural plans do depict some proposed plantings along the west side of facing Westover Meadows. Around the structure will be mowed paths, one providing access to the main entrance and the proposed patio and the other to the trash storage area.
- A two foot wide mowed path will also be established to provide access from the parking area in the existing driveway down to the structure. As requested by the Fire Department, the path will consist of an impermeable material to all allow emergency personnel and equipment to traverse the path, including in the winter. Adjacent to the permeable path, the grass will be mowed to keep the path from becoming overgrown.
- An area at the edge of the existing driveway will also be improved to provide emergency vehicle access. It was noted that this area along with the permeable path are acceptable based on the applicant's willingness to sprinkler the building.
- The Historical Commission reviewed the proposal and was very supportive of the project and did not require a public hearing or demolition delay.

The Board discussed the Fire Department memorandum. Specifically, it was determined that the actual construction material for the impermeable walkway was not as important as ensuring that whatever the material, it meets the Fire Departments requirements. The Board noted that this could be determined in consultation with the Building Commissioner. With respect to the request to install a domestic sprinkler system in the building, staff explained that because the new dwelling is located far from the driveway or paved access for vehicles, the Fire Department requested that a sprinkler system be installed to mitigate the impact of not having direct vehicular access to the new dwelling unit. The applicant expressed concern with the costs involved in installing a sprinkler system. The Board determined that if the sprinkler was eliminated from the plan, any alternatives must be presented and approved by the Board at a public meeting. It was noted that the Fire Department should advise the ZBA on any such alternative as it may include the construction of vehicle access to the new dwelling.

The Board discussed parking. As shown on the site plan, an area along the south side of the existing driveway will be expanded to provide two parallel parking spaces. The applicant requested that the expanded parking not be required. The Board determined that they should be provided as the proposal requires a minimum of four parking spaces for two dwelling units.

In response to a question from the applicant, the Board explained that a Certificate of Occupancy is required before the new dwelling unit is used. All of the proposed improvements, with the potential exception of landscaping, are typically required to be completed prior to the issuance of a Certificate of Occupancy.

Findings:

The Board finds under Section 12.08 and 3.3241 of the Zoning Bylaw, that:

12.08 - *A use containing one or more dwelling units created predominantly through the conversion of existing residential or non-residential space, where said units are located in or attached to an existing residence of ten or more years of age, or a detached structure constructed prior to 1964, located on a lot where at least one dwelling unit lawfully existed prior to the conversion. A converted dwelling use may include portions of dwelling units created through new construction, but no new dwelling unit in a converted dwelling use may be created as a result of new construction alone. Proposed multi-unit residential uses not meeting the thresholds established for the conversion of existing space shall be considered to be the residential use category most closely corresponding to the total number of new dwelling units they include and the nature of the use, as determined by the Zoning Enforcement Officer or Special Permit Granting Authority or Permit Granting Board, as applicable.* Based on the Town GIS aerial photograph from 1956, it was determined that the structure proposed for conversion was constructed prior to 1964 and complies with the requirement.

3.3241 (1)- *An existing residence, a structure attached to an existing residence, or a detached structure, may be converted into a dwelling unit or units provided all other zoning requirements which would apply to converted dwellings are met.* This proposal is for the conversion of an existing detached structure and therefore meets this criterion.

3.3241 (2) - *A conversion of a structure shall not exceed the total number of dwelling units allowed on the lot. The total number of dwelling units shall not exceed 4 in the R-N, R-O, and R-LD districts and shall not exceed 6 in the R-VC, R-G, B-G, B-L and B-VC districts. Conversion in the Aquifer Recharge Protection (ARP) or Watershed Protection (WP) overlay districts shall not be permitted.* The property contains 166,042 sq. ft. where 40,000 square feet is required to increase from one to two units. Therefore, this criterion is met.

3.3241 (4) - *There shall be no significant change in the exterior of the building, except that the Zoning Board of Appeals may authorize modification or alteration of a building if such modification or alteration does not substantially change the building's character or its effect on the neighborhood or on property in the vicinity. Demolition of the existing structure proposed for conversion shall not be permitted.* The changes to the exterior of the building include:

- Replacement of existing windows and addition of several new windows and doors.
- All new siding will be installed and the roof material will change from asphalt shingles to metal standing seam material.
- The roof line will be raised by approximately six inches to accommodate new insulation.
- A small stone patio will be installed adjacent to the new building.
- Other exterior site changes include the creation and/or maintenance of a two foot wide walking path from the parking area to the structure; new trash enclosure; expanded driveway area and expanded parking area.

The Board found that the changes were significant. However, that the changes maintain the character of the structure (in footprint, roofline, architectural details) and that no addition or changes to the footprint are required to convert the building to a dwelling unit. The Board found that the structure was not demolished in order to replace the foundation; the structure was lifted with the foundation poured and structure placed back on the foundation.

3.3241 (5) -Except as hereinafter provided, no converted dwelling use shall involve the demolition and removal of an existing structure proposed for conversion shall not be permitted. The proposed changes to the building do not result in demolition or removal of the structure as described in this section.

3.3241 (6) - The proposed conversion shall be suitably located in the neighborhood in which it is proposed, as deemed appropriate by the Special Permit Granting Authority. The conversion, if in a residential district, shall either: a) be located in an area that is close to heavily traveled streets, close to business, commercial and educational districts, or already developed for multi-family use, and shall require owner occupancy or a Resident Manager (see definition) in one of the units; or b) be from one to two units, one of which shall be and shall remain owner-occupied, which shall be made a condition of any Special Permit issued in such an instance. The proposal is suitable located in the neighborhood as the structure is not visible from the road. Although visible from Westover Meadows, the structure maintains the same footprint and character as the existing structure and will maintain its location in a meadow setting. As noted in criterion 6 (b), the owner will occupy one of the units on the property which is a condition of the permit and the Board found that this is a desirable way to provide additional rental housing in the Town.

3.3241 (7) -The dwelling units shall be connected to the public sewer. However, the Zoning Board of Appeals may authorize, with the approval of the Board of Health, the conversion of a structure to allow an increase from one dwelling unit to two dwelling units on a lot serviced by a septic system. As shown on the submitted site plan, the detached structure will be connected to Town sewer and water.

3.3241 (8) -The Zoning Board of Appeals may modify the dimensional requirements of Table 3, to, one time only for any parcel, allow a conversion under Section 3.3241 that would add one additional unit, only if it finds the modification would be in accordance with the provisions of Section 9.22. The non-conforming setback is acknowledged under the Section 9.22 finding and this Special Permit.

3.3241 (9) -No detached structure shall be converted under the provisions of Section 3.3241 unless it abides by the provisions of Condition 5. above and upon completion provides at least 350 square feet of habitable space. Based on the submitted floor plans and as described in the written submission, the dwelling unit will consist of 1,000 square feet of habitable space which satisfies this criterion.

3.3241 (10) -A management plan as defined in the Rules and Regulations adopted by the Zoning Board of Appeals, shall be included as an integral part of any application. A Management Plan has been submitted and provides the necessary information pertaining to the creation of a new dwelling unit on the property.

3.3241 (11) -A landscape plan appropriate for the project shall be included in the application. The Board found that the provisions for mowed walkways to the entrances and trash, mowed pathway from the parking to the structure and plantings along the west side of the building provide for appropriate landscaping for the project.

3.3241 (12) -Converted dwellings in the R-O and the R-LD districts shall provide a minimum of 2,000 sq. ft. of usable open space per dwelling unit for the use of occupants. Converted dwellings in the R-N district shall provide a minimum of 1,000 sq. ft. of usable open space per dwelling unit. The Board found that there is an area of at least 2,000 square feet on the property available to potential use by the residents of the new dwelling unit.

The Board found under Section 9.22 of the Zoning Bylaw, that:

9.22 - The Special Permit Granting Authority authorized to act under the provisions of Section 3.3 of this bylaw may, under a Special Permit, allow a non-conforming use of a building, structure or land to be changed to a specified use not substantially different in character or in its effect on the neighborhood or on property in the vicinity. Said Authority may also authorize, under a Special Permit, a non-conforming use of a building, structure, or land to be extended, or a non-conforming building to be structurally altered, enlarged or reconstructed; provided that the Authority finds that such alteration, enlargement, or reconstruction shall not be substantially more detrimental to the neighborhood than the existing non-conforming use or non-conforming building. The proposal does not increase the footprint of the structure and all exterior changes to the building will improve the appearance of the structure. The renovation to create a new dwelling unit will not change the buildings character or effect on the neighborhood.

Specific Findings:

The Board found under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 & 10.381 - The proposal is suitably located in the neighborhood in which it is proposed and/or the total Town, as deemed appropriate by the Special Permit Granting Authority; The proposal is compatible with existing Uses and other Uses permitted by right in the same District.

The Board found that the proposal is suitably located and compatible with other uses in the neighborhood because the renovation preserves and enhances the buildings character; creates a small studio-style dwelling unit; and will occur on a property which will be owner occupied.

10.382, 10.383 & 10.385 - The proposal would not constitute a nuisance due to air and water pollution, flood, noise, odor, dust, vibration, lights, or visually offensive structures or site features; The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians; The proposal reasonably protects the adjoining premises against detrimental or offensive uses on the site, including air and water pollution, flood, noise, odor, dust, vibration, lights or visually offensive structures or site features.. The Board found that the proposal protects from these impacts as the aesthetics of the structure will be improved; it will provide for a new dwelling unit built to current standards; will have minimal impact on its surroundings; the exterior lights will be downcast; and, trash will be stored in an enclosure.

10.384 and 10.389 - Adequate and appropriate facilities would be provided for the proper operation of the proposed use; The proposal provides adequate methods of disposal and/or storage for sewage, refuse, recyclables, and other wastes resulting from the uses permitted or permissible on the site, and methods of drainage for surface water. The new construction will be built in accordance with applicable building codes, including means of egress and other safety requirements. Additionally, the structure will contain a domestic sprinkler system pursuant to the requirements of the Fire Department. The Management Plan provides for a screened trash enclosure and the new dwelling unit will be connected to Town water and sewer.

10.386 - The proposal ensures that it is in conformance with the Parking and Sign regulations (Articles 7 and 8, respectively) of this Bylaw. As shown on the site plan, four parking spaces are provided inclusive of an area along the south side of the driveway, pursuant to the requirements of Section 7.0000. The expanded parking area and emergency vehicle turnaround area will be constructed in accordance with the provisions of Section 7.101.

10.387 - The proposal provides convenient and safe vehicular and pedestrian movement within the site, and in relation to adjacent streets, property or improvements. A condition of this permit requires the construction of an impermeable path from the existing driveway to the new dwelling unit in order to provide access for emergency personnel. The expanded parking area in the driveway is designed to ensure that the driveway remains a sufficient width to allow access by emergency vehicles.

10.392 - The proposal provides adequate landscaping, including the screening of adjacent residential uses, provision of street trees, landscape islands in the parking lot and a landscape buffer along the street frontage. The proposal maintains the existing meadow-like setting of the barn and no additional landscaping, except for maintaining mowed paths for egress, are required.

10.393 - The proposal provides protection of adjacent properties by minimizing the intrusion of lighting, including parking lot and exterior lighting, through use of cut-off luminaires, light shields, lowered height of light poles, screening, or similar solutions. A condition of the permit requires that all exterior lights associated with the new dwelling be downcast to prevent spillage onto adjacent properties.

10.398 - The proposal is in harmony with the general purpose and intent of this Bylaw, and the goals of the Master Plan. The Board found that the proposal is in harmony with the purposes of the Bylaw as the structure to be converted was built before 1964 and does not require any expansion to accommodate the new unit. The proposal meets the goal of the Master Plan to "encourage a greater mix of housing types, sizes, and prices serving a wider range of income levels than is currently available throughout Amherst. Encourage the development of economically diverse neighborhoods."

Zoning Board Decision

Mr. Ehrgood MOVED to approve the application with conditions. Mr. Parent seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to grant a Special Permit, ZBA FY2014-00002, to convert a dimensionally non-conforming detached barn into a dwelling unit, as a Converted Dwelling, under Section 3.3241 and 9.22 of the Zoning Bylaw, at 71 Middle Street (Map 23B, Parcel 2, R-O Zoning District), with conditions.


ERIC BEAL


TOM EHRCOOD


MARK PARENT

FILED THIS 15th day of October, 2013 at 2:11pm
in the office of the Amherst Town Clerk Candice G. Berger
TWENTY-DAY APPEAL period expires, October 20, 2013.
NOTICE OF DECISION mailed this 2nd day of October, 2013
to the attached list of addresses by Jeffrey R. Bagg, for the Board.
COPY OF NO APPEAL issued this _____ day of _____, 2013.
NOTICE OF PERMIT or Variance filed this _____ day of _____, 2013,
in the Hampshire County Registry of Deeds.

BOARD OF APPEALS
AMHERST, MASSACHUSETTS
RECORD OF APPEALS AND DECISION RENDERED

Petition of Jeanne Esposito

For a Special Permit to convert a dimensionally non-conforming detached barn into a dwelling unit, as a Converted Dwelling, under Section 3.3241 and 9.22 of the Zoning Bylaw

On the premises of 71 Middle Street

At or on Map 23B, Parcel 2, R-O Zoning District

NOTICE of hearing as follows mailed (date) August 15, 2013
to attached list of addresses and published in the Daily Hampshire Gazette
dated August 14, 2013 and August 21, 2013

Hearing date and place August 29, 2013 (Town Hall)

The Amherst Zoning Board of Appeals will meet on *Thursday, August 29, 2013*, at 6:30 P.M. in the TOWN ROOM, Town Hall, to conduct the following business:
PUBLIC HEARING:
ZBA FY2014-00002
-- Jeanne Esposito -- For a Special Permit to convert a dimensionally non-conforming detached barn into a dwelling unit, as a Converted Dwelling, under Section 3.3241 and 9.22 of the Zoning Bylaw, at 71 Middle Street (Map 23B, Parcel 2, R-O Zoning District)
ZBAFY2014-00003--Joshua Hornick - For a Special Permit to convert a portion of an existing dwelling into a Supplemental Apartment, under Section 5.011 of the Zoning Bylaw, at 94 Summer Street (Map 5A, Parcel 152, R-LD/FC Zoning District)
ERIC BEAL, CHAIR
AMHERST ZONING BOARD OF APPEALS
August 14, 21
3265074

SITTING BOARD and VOTE TAKEN:

a Special Permit, ZBA FY2014-00002, to convert a dimensionally non-conforming detached barn into a dwelling unit, as a Converted Dwelling, under Section 3.3241 and 9.22 of the Zoning Bylaw, with conditions.

Eric Beal -- Yes Tom Ehrgood -- Yes Mark Parent - Yes

DECISION: APPROVED with conditions as stated in permit

THE COMMONWEALTH OF MASSACHUSETTS
AMHERST

City or Town
NOTICE OF SPECIAL PERMIT
Special Permit
(General Laws Chapter 40A)

Notice is hereby given that a Special Permit has been granted

To Jeanne Esposito
Address 71 Middle Street
City or Town Amherst, MA 01002

Identify Land Affected: 71 Middle Street
(Map 23B, Parcel 2, R-O Zoning District)

By the **Town of Amherst Zoning Board of Appeals** affecting the rights of the owner
with respect to the use of the premises on

71 Middle Street Amherst
Street City or Town

The record of title standing in the name of
George Karras
Name of Owner

Whose address is 71 Middle Street Amherst MA 01002
Street City or Town State Zip Code

By a deed duly recorded in the
Hampshire County Registry of Deeds: Book 3732 Page 62
or

Hampshire Registry District of the Land Court, Certificate No. _____,
Book _____, Page _____

The decision of said Board is on file, with the papers, in ZBA FY2014-00002
In the office of the Town Clerk Sandra J. Burgess

Certified this _____ day of _____

Board of Appeals:

(Signature) Chairman
(Board of Appeals)
(Signature) Clerk
(Board of Appeals)

_____ at _____ o'clock and _____ minutes _____ m.
Received and entered with the Register of Deeds in the County of Hampshire
Book _____ Page _____

ATTEST _____
Register of Deeds
Notice to be recorded by Land Owner

Town of Amherst Abutter List

Parcel ID	Parcel Address	Owner1	Owner2	Address	City/St/Zip
23B-60	MIDDLE ST	INHABITANTS OF THE TOWN OF AMHERST		4 BOLTWOOD AVE	AMHERST, MA 01002
23B-1-85	MIDDLE ST	NICHOLSON, VICTORIA T & FARNHAM WILLIAM		MIDDLE ST	Amherst, MA 01002
20D-12	15 MIDDLE ST	TRUSTEES OF HAMPSHIRE COLLEGE		893 WEST ST	AMHERST, MA 01002
20D-31	26 MIDDLE ST	ELY, LAURENCE D III	ELY, TAMSON MYERS	26 MIDDLE ST	AMHERST, MA 01002
20D-64	31 MIDDLE ST	WARNER, STANLEY L & SIGNIA R		31 MIDDLE ST	AMHERST, MA 01002
23B-1	51 MIDDLE ST	MANNING, WILLIAM J	MANNING, ARLENE A	51 MIDDLE ST	AMHERST, MA 01002
23B-4	54 MIDDLE ST	MILTZ, ROBERT J	ABRAMS, LINDA R	54 MIDDLE ST	AMHERST, MA 01002
23B-2	71 MIDDLE ST	KARRAS, GEORGE E JR	ESPOSITO, JEANNE C	71 MIDDLE ST	AMHERST, MA 01002
23B-3	80 MIDDLE ST	NIELSEN, NIELS & TERESA J		608 SOUTH PLEASANT ST	AMHERST, MA 01002
23B-17	94 MIDDLE ST	NAKOSTEEN, ROBERT A	GROVES, NORA C	94 MIDDLE ST	AMHERST, MA 01002
23B-57	101 MIDDLE ST	KAMINSKY, CAROLA		101 MIDDLE ST	AMHERST, MA 01002
23B-18	116 MIDDLE ST	GUMMERE, ELIZABETH N & JOHN G		116 MIDDLE ST	AMHERST, MA 01002
23B-74	117 MIDDLE ST	TEMPLETON, DON E & MARINA F		117 MIDDLE ST	AMHERST, MA 01002
23B-85	131 MIDDLE ST	NICHOLSON, VICTORIA T & FARNHAM, WILLIAM		131 MIDDLE ST	AMHERST, MA 01002

<i>Parcel ID</i>	<i>Parcel Address</i>	<i>Owner1</i>	<i>Owner2</i>	<i>Address</i>	<i>CityStZip</i>
20D-11	285 POMEROY LN	SLAWSKI, THADDEUS	FIRMAN, DOROTHY T	285 POMEROY LN	AMHERST, MA 01002
23B-15	1159 SOUTH EAST ST	SEAMAN, AMANDA C & GILSDORF, SEAN J		1159 SOUTH EAST ST	AMHERST, MA 01002